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UNITED STATES DISTRICT COURT
 FOR THE
 NORTHERN MARIANA ISLANDS

MOSES T. FEJERAN and
 QIANYAN S. FEJERAN,

Plaintiffs,

vs.

AVIATION SERVICES (CNMI), LTD.
 dba FREEDOM AIR,

Defendant.

CIVIL ACTION NO. 05-0033

**DEFENDANT'S RESPONSE TO
 PLAINTIFFS FIRST SET OF
 INTERROGATORIES;
 VERIFICATION; CERTIFICATE
 OF SERVICE**

Defendant Aviation Services (CNMI), Ltd. dba Freedom Air, hereby responds to
 Plaintiffs First Set of Interrogatories as follows:

Interrogatory No. 1: Please DESCRIBE IN DETAIL any and all policies and/or
 procedures, either written or spoken, official or unofficial, that YOU had in force at the time of
 the OCCURRENCE to ensure that the methods and instrumentalities by which passengers
 embark and/or disembark from YOUR aircraft are reasonably safe.

Response to Interrogatory No. 1: Please refer to FAR 121.131 et seq.. In addition,
 passengers are instructed to use caution when using the aircraft stair and to use the handrail.

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 By: Jhen
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1 When passengers use the stair an airline employee (ground agent) is stationed there to assist.

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3 Interrogatory No. 2: Please DESCRIBE IN DETAIL any policy or procedure, written or
4 spoken, official or unofficial, that YOU had in force at the time of the OCCURRENCE that
5 governed the actions of YOUR employees when a passenger on any of YOUR aircraft would be
6 injured in any way.

7 Response to Interrogatory No. 2: Please refer to FAR 121.131 et seq.. Employees are
8 trained to respond to passenger incident situations. Exactly how the employee responds depends
9 on the nature of the incident. Obviously, the focus of the training and response is the safety and
10 well-being of the passenger. In this instance, the passenger was asked if he was okay and he said
11 yes. The passenger was nonetheless offered assistance and a medical check-up, which were
12 declined. The passenger was also offered use of a wheelchair, which was likewise declined. The
13 passenger was also invited to seek any help or assistance he might later need at the airline
14 counter, but none was requested.

15
16 Interrogatory No. 3: Please DESCRIBE IN DETAIL any policy or procedure, written or
17 spoken, official or unofficial, that YOU had in force at the time of the OCCURRENCE that
18 governed any post-accident review of safety procedures and/or any post-accident inspection of
19 equipment.

20 Response to Interrogatory No. 3: Please refer to FAR 121.135(22). The incident reports
21 for this incident will be produced in discovery.

22
23 Interrogatory No. 4: Please IDENTIFY any and all PERSON(s) to YOUR knowledge
24 who have, in the last ten (10) years, slipped, tripped, fallen or otherwise had any accident, or
25 have complained of having any such accident, while embarking or disembarking from any of
26 YOUR aircraft regardless of the method or instrumentality used in said embarkation or
27 disembarkation and regardless of whether or not that particular PERSON suffered any injury or
28 not.

1 Response to Interrogatory No. 4: Defendant objects to this interrogatory on the grounds
2 that it is vague and overly broad as to scope and time frame, in particular, with regard to "any
3 accident" in the past "10 years". Subject to and without waiving the objection, the following
4 persons have been involved in embarkation and disembarkation incidents during the past five (5)
5 years: None

6
7 Interrogatory No. 5: Please DESCRIBE IN DETAIL the actions taken by YOUR
8 employees in response to any incident in which any PERSON, in the last ten (10) years, slipped,
9 tripped, fell or otherwise had any accident, or have complained of any such accident, while
10 embarking or disembarking from any of your aircraft regardless of the method of the method or
11 instrumentality used in said embarkation or disembarkation regardless of whether or not that
12 particular PERSON suffered any injury or not. In so describing:

- 13 a. IDENTIFY whatever employees were involved in said response(s),
14 b. DESCRIBE IN DETAIL the actions that they took,
15 c. DESCRIBE IN DETAIL any DOCUMENTATION that said employees generated
16 in responding to any such incident,
17 d. And, DESCRIBE IN DETAIL any subsequent changes in any of YOUR policies
18 and/or procedures, spoken or written, official or unofficial, undertaken as a result of any said
19 incidents.

20 Response to Interrogatory No. 5: Defendant objects to this interrogatory on the grounds
21 that it is vague and overly broad as to scope and time frame, in particular, with regard to "any
22 accident" in the past "10 years". Subject to and without waiving the objection, please see the
23 following information for embarkation and disembarkation incidents during the past five (5)
24 years: Not applicable.

25
26 Interrogatory No. 6: Please DESCRIBE IN DETAIL ALL FACTS YOU contend are
27 RELEVANT TO YOUR general and specific denial that DEFENDANT breached its duty to
28 maintain the methods and/or instrumentalities used by YOUR passengers to embark upon and

1 disembark from YOUR aircraft in a reasonably safe manner as stated in YOUR Answer.

2 Response to Interrogatory No. 6: There was nothing wrong with the aircraft stair and the
3 proper warnings and cautions were given to the passengers concerning use of the stair. Said
4 another way, the no-breach-of-duty defense is established by the *absence* of any fact which
5 would show or event tend to show any unlawful act or omission on the part of Defendant. It is
6 Plaintiff's burden to establish fact sufficient to prove negligence, yet Plaintiff has no such facts.
7 On the other hand, there are facts which show or tend to show that the passenger was not paying
8 attention to the situation and not looking out for his own safety. Additional facts may become
9 apparent through discovery.

10
11 Interrogatory No. 7: Please IDENTIFY all PERSONS YOU contend have knowledge
12 RELEVANT TO YOUR general and specific denials that DEFENDANT breached its duty to
13 maintain the methods and/or instrumentalities used by YOUR passengers to embark upon and
14 disembark from YOUR aircraft in a reasonable safe manner as stated in YOUR Answer.

15 Response to Interrogatory No. 7: Please refer to the names which appear on the incident
16 reports and statements produced by Defendant and the names disclosed in Defendant's Initial
17 Disclosures. Additionally, Richard Brown, Director of Operations, and a safety expert yet to be
18 retained and identified.

19
20 Interrogatory No. 8: Please IDENTIFY all DOCUMENTS YOU contend are
21 RELEVANT TO YOUR general and specific denials that DEFENDANT breached its duty to
22 maintain the methods and/or instrumentalities used by YOUR passengers to embark upon and
23 disembark from YOUR aircraft in a reasonably safe manner as stated in YOUR Answer.

24
25 Response to Interrogatory No. 8: Please refer to FAR 121.131 et seq.. Additionally, all
26 documents disclosed and/or produced in discovery, such as witness statements and incident
27 reports. Additional documents and expert witness reports may yet be forthcoming.

1 Interrogatory No. 9: Please DESCRIBE IN DETAIL ALL FACTS YOU contend are
2 RELEVANT TO YOUR general and specific allegations that the injuries sustained by Plaintiff
3 Moses Fejeran are attributable wholly or in part to his own fault as stated in YOUR Answer.

4 Response to Interrogatory No. 9: Please refer to the answer to interrogatory No. 6
5 above. Additional facts may become apparent through discovery.

6
7 Interrogatory No. 10: Please IDENTIFY all PERSONS YOU contend have knowledge
8 RELEVANT TO YOUR general and specific allegations that the injuries sustained by Plaintiff
9 Moses Fejeran are attributable wholly or in part to his own fault as stated in YOUR Answer.

10 Response to Interrogatory No. 10: Please refer to the names which appear on the
11 incident reports and statements produced by Defendant and the names disclosed in Defendant's
12 Initial Disclosures.

13
14 Interrogatory No. 11: Please IDENTIFY all DOCUMENTS YOU contend are
15 RELEVANT TO YOUR general and specific allegations that the injuries sustained by Plaintiff
16 Moses Fejeran are attributable wholly or in part to his own fault as stated in YOUR Answer.

17 Response to Interrogatory No. 11: All documents disclosed and/or produced in
18 discovery, such as witness statements and incident reports. Additional documents and expert
19 witness reports may yet be forthcoming.

20
21 Interrogatory No. 12: Please DESCRIBE IN DETAIL ALL FACTS YOU contend
22 support your allegation that this civil action "arises under a treaty of the United States,
23 specifically the Warsaw Convention" as stated in Defendant's Notice of Removal filed
24
25 previously with the United States District Court for the Northern Mariana Islands and as alleged
26 in YOUR Answer.

27 Response to Interrogatory No. 12: Defendant objects to this interrogatory on the
28 grounds that it is not reasonably calculated to lead to the discovery of admissible evidence.

1 Subject to and without waiving the objection, the flight in question operated between the CNMI
2 and Guam, thus subjecting it to rules and treaties governing international flights.

3
4 Interrogatory No. 13: Please IDENTIFY all FACTS YOU contend support your
5 allegation that this civil action "arises under a treaty of the United States, specifically the
6 Warsaw Convention" as stated in Defendant's Notice of Removal filed previously with the
7 United States District Court for the Northern Mariana Islands and as alleged in YOUR Answer.

8 Response to Interrogatory No. 13: Defendant objects to this interrogatory on the
9 grounds that it is not reasonably calculated to lead to the discovery of admissible evidence.
10 Subject to and without waiving the objection, the flight in question operated between the CNMI
11 and Guam, thus subjecting it to rules and treaties governing international flights.

12
13 Interrogatory No. 14: Please IDENTIFY all DOCUMENTS YOU contend support your
14 allegation that this civil action "arises under a treaty of the United States, specifically the
15 Warsaw Convention" as stated in Defendant's Notice of Removal filed previously with the
16 United States District Court for the Northern Mariana Islands and as alleged in YOUR Answer.

17 Response to Interrogatory No. 14: Please refer to the Warsaw Convention and the
18 amendments and protocols thereto.

19
20 Interrogatory No. 15: Please IDENTIFY all engineers, contractors, builders, and
21 subcontractors involved in the design, construction, and any modifications of the STAIRCASE,
22 or any other similar instrumentality used for disembarkation from or embarkation on to any of
23 YOUR aircraft.

24
25 Response to Interrogatory No. 15: In terms of the stair being an individual component of
26 the aircraft, we do not know who "designed" or "built" the stair. The folding stair is an integral
27 part of the aircraft, which is presumably purchased and installed on the aircraft by the aircraft
28 manufacturer prior to the aircraft being delivered to a purchaser. The stair has not to our

1 knowledge been modified from its original design and installation on the aircraft.

2
3 Interrogatory No. 16: Please IDENTIFY each and every incident in which a PERSON
4 was injured in anyway while on-board, embarking, disembarking or waiting to embark or
5 disembark any of YOUR aircraft anywhere in the Mariana Islands (including Saipan, Tinian,
6 Rota and Guam) during the past 10 (ten) years.

7 Response to Interrogatory No. 16: Defendant objects to this interrogatory on grounds
8 that it is overly broad as to scope and time frame. Subject to and without waiving the objection,
9 please see the following information for embarkation and disembarkation incidents during the
10 past five (5) years: Not applicable.

11
12 Interrogatory No. 17: What is YOUR version of how the OCCURRENCE happened?

13 Response to Interrogatory No. 17: Please refer to the statements of the eye-witnesses,
14 which have been disclosed and produced in discovery. Nothing external to the passenger caused
15 or contributed to cause the incident. Rather, Plaintiff failed to reasonably look out for his own
16 safety.

17
18 Interrogatory No. 18: Please DESCRIBE IN DETAIL ALL FACTS which YOU
19 contend support your allegation that Plaintiffs' have failed to state a valid cause of action.

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24 Response to Interrogatory No. 18: Please refer to the statements of the eye-witnesses,
25 which have been disclosed and produced in discovery and the answer to No. 17 above. Since
26 Plaintiff Moses Fejeran has no valid claim or cause of action, Plaintiff Qianyan Fejeran has no
27 valid. derivative claim or cause of action
28

1 DATED: Hagåtña, Guam, April 5, 2006.

2 CARLSMITH BALL LLP

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4 DAVID LEDGER
5 Attorneys for Defendant
6 Aviation Services (CNMI), Ltd.
7 dba Freedom Air
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DECLARATION OF JOAQUIN FLORES


GUAM, U.S.A.

I, Joaquin Flores, am GENERAL MANAGER of AVIATION SERVICES (CNMI), LTD. dba FREEDOM AIR and am authorized to make this Declaration.

I have read the foregoing answers and objections to PLAINTIFF'S FIRST REQUEST FOR ANSWERS TO INTERROGATORIES and, to the best of my knowledge, the information stated therein is true and correct. The information necessary to prepare said responses was obtained from records maintained by Aviation Services (CNMI), Ltd. dba Freedom Air and elsewhere.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

DATED: April 3, 2006.


JOAQUIN FLORES

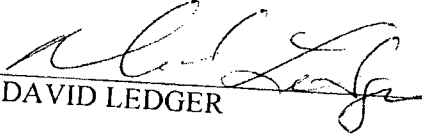
4822-5162-7776.1

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 5th day of April 2006, I will cause to be served, via hand delivery, a true and correct copy of DEFENDANT'S RESPONSE TO PLAINTIFFS FIRST SET OF INTERROGATORIES; VERIFICATION to the following Counsel of record.

David G. Banes, Esq.
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Second Floor, Nauru Building
Post Office Box 501969
Saipan, MP 96950

DATED: April 5, 2006.


DAVID LEDGER